

Remarks Concerning Official Communication

The Official Communication identifies claims 1-4 and 39-43 as belonging to group I and claims 22-32 as belonging to group II. The Office alleges that the inventions in these two groupings are distinct, each from the other by relying on MPEP § 806.05(h). More specifically, the Office alleges that "the product can be used in a process not requiring a standard fill time to be determined".

The applicant respectfully disagrees with the Office's position. The applicant provides Table 1 to identify the elements of each independent claim in the two groupings and illustrating the relationship between the claims.

The Office has stated that "in the instant case the product can be used in a process not requiring a standard fill time to be determined". The method claim 22 includes the step of determining a standard fill time. This step can include actually measuring the standard fill time, or simply reading the value of the standard fill time out of a memory device. Page 10 line 11 of the specification. Claims 1 and 39 respectively include an element of timing module operative to (a) measure a standard fill time or (b) receive a standard fill time. Thus, the process as recited in claim 22, can determine the standard fill time by measuring the standard fill time as recited in claim 1 or receiving the standard fill time, such as by reading it out of memory as a non-limiting example, as recited in claim 39.

Thus, the applicant fails to see the Office's position that the inventions in these claims are distinct. Rather, the applicant suggests to the contrary that the claims are so closely related that they should certainly be examined together. Because the applicant has provided proof or at least a convincing argument that the alternative use suggested by the Office cannot be accomplished, the applicant affirms that the burden is now shifted to the Office to support a viable alternative use or withdraw the requirement.

To ensure that the applicant's response is fully responsive, the applicant will elect further prosecution of the claims in Group I if the Office refuses to remove this restriction requirement.


Table 1

Group I		Group II
Claim 1	Claim 39	Claim 22
An apparatus for providing leak detection within a reservoir of a toilet, said apparatus comprising:	An apparatus for providing leak detection within a toilet reservoir, said apparatus comprising:	A method for providing leak detection comprising the following steps:
a water flow sensor; and	a water flow sensor; and	
a timing module coupled to the water flow sensor and in cooperation with the water flow sensor, the timing module being operable to:	a timing module coupled to the water flow sensor and in cooperation with the water flow sensor, the timing module being operative to:	
measure a standard fill time required to properly fill the reservoir following a flush;	receive a standard fill time required to properly fill the reservoir following a flush;	determining a standard fill time for filling a toilet reservoir with water;
		determining a lower time threshold and an upper time threshold based upon said standard fill time;
activate an alarm if a subsequently detected water flow occurs for a period of time that is below the standard fill time by a first threshold amount of time; and	activate an alarm if the water flow sensor detects water flow for a period of time that is outside of a threshold of the standard fill time.	activating a first alarm when a subsequent fill time is below said lower time threshold to identify a slow leak; or
activate an alarm if a subsequently detected water flow occurs for a period of time that is above the standard fill time by a second threshold amount of time.		activating a second alarm if a subsequent fill time is above said upper time threshold to identify a faster leak.

Conclusion

The applicant respectfully submits that each and every issue raised in the Official Communication has been fully addressed in the response. Further, the applicant asserts that each of the pending claims are so closely related that the Office's imposition of a restriction requirement is unnecessary and over burdensome. The applicant respectfully request the Office to continue examination of each of the pending claims 1-4, 22-32 and 39-43.

Respectfully submitted,

By: 
Gregory Scott Smith
Reg. No. 40,819
Attorney for Applicant

LAVA Group Law by Smith & Frohwein, LLC
PO Box 88148
Atlanta, Georgia 30356
(v) (770) 804-9070 (f) (770) 804-0900